



State of New Hampshire
DEPARTMENT OF ENVIRONMENTAL SERVICES

6 Hazen Drive, P.O. Box 95, Concord, NH 03302-0095

(603) 271-3503 FAX (603) 271-2867



Town of Wolfeboro
Attn: Martin Bilafer
Director of Public Works
9 Union Street
Wolfeboro, NH 03894

**ADMINISTRATIVE ORDER
BY CONSENT
No. WD 03-009**

March 26, 2003

A. INTRODUCTION

This Administrative Order by Consent is issued by the Department of Environmental Services, Water Division to, and with the consent of, the Town of Wolfeboro, pursuant to RSA 485-A. This Administrative Order by Consent is effective upon signature by both parties. After that date, this Agreement may be amended only by written agreement signed by both parties. Any such amendment will become effective on the date on which it has been signed by both parties.

B. PARTIES

1. The Department of Environmental Services, Water Division ("DES"), is a duly-constituted administrative agency of the State of New Hampshire, having its principal office at 6 Hazen Drive, P.O. Box 95, Concord, NH 03302-0095.
2. The Town of Wolfeboro ("Wolfeboro") is a duly-constituted municipality of the State of New Hampshire having a mailing address of P.O. Box 629, 84 South Main Street, Wolfeboro, NH 03894.

C. STATEMENTS OF FACTS AND LAW

1. RSA 485-A authorizes DES to establish standards for the management and recycling of sludge. Pursuant to RSA 485-A:6,X-a, the Commissioner of DES has adopted NH Admin. Rules Env-800, the Sludge Management Rules ("the Rules"), to implement this program.
2. Wolfeboro operates a wastewater treatment facility off Filter Bed Road in Wolfeboro ("Facility") in accordance with a groundwater discharge permit (Permit No: GWP-198705015-W-001) issued pursuant to Env-Ws 1500, the Groundwater Discharge and Registration Rules.
3. The Facility produces sludge as defined by RSA 485-A:2,XI-a and is therefore subject to the requirements of RSA 485-A and the Rules.
4. The sludge is currently composted at a location adjacent to the Facility, but outside the fence line, on property owned by Wolfeboro.
5. Env-Ws 802.22 defines "management" as "the practice of supervising, controlling, or undertaking any sludge activity (ies) regulated under these rules (Env-Ws 800), including transportation, land applying, stockpiling, treating or processing."

6. Env-Ws 804.02(a) requires that sludge management be conducted in accordance with a permit issued pursuant to Env-Ws 800, RSA 485:13 or RSA 149-M.
7. At this time, no permit authorizes managing (composting) sludge in the area currently used by Wolfeboro.
8. On December 24, 2002, DES issued Administrative Order No. 02-48 ("the Order") requiring that by February 1, 2003 Wolfeboro cease its compost operation, remove all compost, sludge, and amendments, and submit a plan to revegetate the area.
9. On January 23, 2003, DES staff met with Wolfeboro representatives to discuss the Order. At that meeting, DES and Wolfeboro agreed to the following:
 - a. DES would amend the Order to extend the compliance deadline to March 17, 2003;
 - b. Wolfeboro would immediately prepare, for DES approval, a plan for berming the compost area to avoid impacting adjacent wetlands/surface water;
 - c. DES would allow continued use of the compost area until Wolfeboro developed and implemented a plan for long-term sludge management; and
 - d. DES and Wolfeboro would enter into an Administrative Order by Consent which would supersede the previous Order and formalize their verbal agreement.
10. On January 29, 2003, DES issued, as agreed upon in previous administrative orders relative to this issue in Paragraph 9.a. above, an Amendment to the Order that extended the deadline for that order to March 17, 2003.

D. DETERMINATION OF VIOLATIONS

1. Wolfeboro has violated Env-Ws 804.02(a) by not obtaining a facility permit under Env-Ws 808 or ceasing composting operations.
2. Wolfeboro has violated RSA 485-A:13 by not obtaining a permit to discharge runoff to a surface water or by managing runoff from its composting operation to avoid the discharge.

E. ORDER

Based on the above findings, DES hereby orders Wolfeboro, and Wolfeboro agrees, to undertake and complete the following actions in accordance with the time schedules specified:

1. **By May 1, 2003**, Wolfeboro shall schedule with DES staff an inspection of the area currently used for composting of sludge and storage of sludge, compost, and compost amendment.
2. **Within 30 days of the inspection required in Item #1**, Wolfeboro shall complete any modifications of the composting/storage area required by DES as a result of the inspection or submit a plan to DES for completion of all the required modifications.

3. **By July 14, 2003**, Wolfeboro shall submit in writing a sludge management plan ("the Plan") that identifies how Wolfeboro proposes to manage the sludge generated at its Facility in the future. The Plan should at a minimum include a contingency describing an alternate management option to be implemented in the event the primary option fails or is temporarily unavailable.
4. **By September 22, 2003**, Wolfeboro shall submit to DES any and all permit and/or waiver applications required to implement the Plan in Item #3 above, or if no permits or waivers are required, submit for review and approval a final schedule for implementation of the Plan. Wolfeboro shall diligently participate in the permitting and/or waiver process and promptly reply to any requests by DES relative thereto.
5. **By November 14, 2003**, Wolfeboro shall notify DES of any outstanding permitting and/or waiver requests made by Wolfeboro pursuant to Item #4 above. DES shall promptly notify Wolfeboro of the status of any outstanding item(s) submitted by Wolfeboro.
6. **By December 19, 2003**, Wolfeboro shall notify DES whether it intends to implement the Plan. If Wolfeboro decides not to implement the Plan, Wolfeboro shall submit to DES for review and approval a plan and schedule for closure of the sludge composting/storage area.
7. **By December 30, 2003**, Wolfeboro shall submit to DES for review and approval a final schedule for implementation of the Plan in Item #3 above, including a construction schedule.
8. Wolfeboro shall implement the Plan according to the implementation schedule required by Item #7 above and as conditioned and approved by DES. DES recognizes that circumstances may arise which result in scheduling delays. Wolfeboro shall continuously and diligently pursue implementation of the Plan in Item #3. Wolfeboro shall immediately notify DES of any anticipated delays in implementing the Plan. Reasonable changes to the implementation schedule shall not be unreasonably withheld by DES.
9. This Order supersedes all previous administrative orders issued by DES to Wolfeboro relative to sludge management under RSA 485-A or Env-Ws 800.
10. Send correspondence, data, reports, and other submissions made in connection with this Administrative Order by Consent to DES as follows:

Michael Rainey, Hydrogeologist III, WEB
DES Water Division
6 Hazen Drive
Concord, NH 03301
Fax No.: (603) 271-2818
e-mail: mrainey@des.state.nh.us

F. STIPULATED PENALTIES

Stipulated Penalties:

1. Wolfeboro agrees to pay a stipulated penalty of \$1,000 for failure to comply with any of Wolfeboro's obligations under the requirements of this order outlined in Section E above by the date specified. If stipulated penalties become due, payment shall be by certified check made payable to "Treasurer, State of New Hampshire" and mailed to DES Legal Unit, 6 Hazen Drive, PO Box 95, Concord, NH 03302-0095, attn: Michael Sclafani, Legal Assistant, within 15 days of receipt of notice from DES that payment is required.

G. CONSENT AND WAIVER OF APPEAL

1. By execution of this Administrative Order by Consent, Wolfeboro agrees that this order shall apply to and be binding upon Wolfeboro, its officers, directors, successors and assigns, and agrees that this order may be entered and enforced by a court of competent jurisdiction.
2. By execution of this Administrative Order by Consent, Wolfeboro waives any right to appeal this Administrative Order by Consent provided by statute, rule, or common law, including without limitation the right to appeal to the Water Council, and waives any right to object to the entry and enforcement of this order by a court of competent jurisdiction.

Town of Wolfeboro

COPY
By: Paul J. [Signature]
Duly Authorized

4/7/03
Date

NH Department of Environmental Services

COPY
Harry T. Stewart, P.E., Director
Water Division

4/9/03
Date

COPY
Robert Monaco, Acting Commissioner

4-11-03
Date

Certified Mail/RRR: 7099 3400 0002 9770 5954

cc: Gretchen Rule, DES Legal Unit
Public Information Officer, DES PIP Office
NH AGO
Board of Selectmen, Town of Wolfeboro